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## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2013-0019]**

**Greenkraft Inc.**

### **Receipt of Application for Temporary Exemption**

**from FMVSS No. 108**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of receipt of petition for a temporary exemption from Federal Motor Vehicle Safety Standard (FMVSS) No. 108, Lamps, Reflective Devices, and Associated Equipment.

**SUMMARY:** In accordance with the procedures in 49 CFR Part 555, Greenkraft, Inc. has applied for a temporary exemption for its 1061 and 1082 model trucks from the requirements of paragraph S7 of FMVSS No. 108 applicable to headlamps. The basis of the application is that the exemption would make development or field evaluation of a low-emission vehicle easier without unreasonably lowering the safety performance of the vehicle.

NHTSA is publishing this notice of receipt of the application in accordance with the requirements of 49 U.S.C. 30113(b)(2), and has made no judgment on the merits of the application.

**DATES:** You should submit your comments not later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Thomas Healy, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, West

Building 4<sup>th</sup> Floor, Room W41-212, Washington, DC 20590. Telephone: (202) 366-2992; Fax: (202) 366-3820.

**COMMENTS:** We invite you to submit comments on the application described above. You may submit comments identified by the docket number at the heading of this notice by any of the following methods:

- Web Site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the electronic docket site by clicking on “Help and Information” or “Help/Info.”
- Fax: 1-202-493-2251.
- Mail: U.S. Department of Transportation, Docket Operations, M-30, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue, SE, West Building

Ground Floor, Room W12-140, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal holidays. Telephone: (202) 366-9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://www.dot.gov/privacy.html>.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR Part 512).

## **SUPPLEMENTARY INFORMATION:**

### **I. Statutory Basis for Temporary Exemptions**

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified as 49 U.S.C. Chapter 301, authorizes the Secretary of Transportation to exempt, on a temporary basis and under specified circumstances, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority in this section to NHTSA.

NHTSA established 49 CFR part 555, Temporary Exemption from Motor Vehicle Safety and Bumper Standards, to implement the statutory provisions concerning temporary exemptions. A vehicle manufacturer wishing to obtain an exemption from a standard must demonstrate in its application (A) that an exemption would be in the public interest and consistent with the Safety Act and (B) that the manufacturer satisfies one of the following four bases for an exemption: (i) compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith; (ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard; (iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or (iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

For an exemption petition to be granted on the basis that the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of the vehicle, the petition must include specified information set forth at 49 CFR 555.6(c). The main requirements of that section include: (1) substantiation that the vehicle is a low-emission vehicle; (2) documentation establishing that a temporary exemption would not unreasonably degrade the safety of a vehicle; (3) substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle; (4) a statement of whether the petitioner intends to conform to the standard at the end of the exemption period; and (5) a statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted.

## **II. Greenkraft's Petition**

Greenkraft is petitioning the agency for a temporary exemption from the provisions in FMVSS No. 108 applicable to headlamp photometry on the basis that “the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle.” 49 U.S.C. 30113(b)(3)(B)(iii). The agency received Greenkraft's petition October 24, 2012. Greenkraft has requested that, if granted, the exemption period begin immediately.

Greenkraft plans to produce trucks that run on compressed natural gas engines with a gross vehicle weight rating (GVWR) of over 14,000 pounds under the requested exemption. Greenkraft is requesting a three-year exemption and plans to produce 2,300 vehicles during the exemption period. Greenkraft states in the petition that it plans to comply with FMVSS No. 108 at the end of the exemption period.

### **A. Low Emission Vehicle**

In order to be eligible for a temporary exemption on the grounds that the exemption would make development or field evaluation of a low-emission vehicle easier without unreasonably lowering the safety performance of the vehicle, the applicant must substantiate that the vehicle is a low-emission vehicle. In order to qualify as a low-emission vehicle, the vehicle must meet the applicable standards for new motor vehicles under the Clean Air Act, 42 U.S.C. 7521, et seq. and emit an air pollutant in an amount significantly below one of those standards. The Environmental Protection Agency's (EPA) regulations issued pursuant to the Clean Air Act establish exhaust emissions thresholds for heavy-duty low-emission vehicles. These exhaust emission thresholds require that a heavy duty low emission vehicle emit combined emissions of oxides of nitrogen and nonmethane hydrocarbons (or nonmethane hydrocarbon equivalent) of 3.8

grams or less per brake horsepower-hour or combined emissions of oxides of nitrogen and nonmethane hydrocarbons (or nonmethane hydrocarbon equivalent) of 3.5 grams or less per brake horsepower-hour when tested (certified) on fuel meeting the specifications of California certification fuel. 40 CFR 88.105-94.

Greenkraft submitted a certification from the California Environmental Protection Agency's Air Resources Board to substantiate that the vehicle that is the subject of the application is a low emissions vehicle. The Air Resources Board certification states that the vehicle's combined emissions of oxides of nitrogen and nonmethane hydrocarbons are 0.13 grams per brake horsepower-hour.

**B. Statement that a Temporary Exemption Would Not Unreasonably Degrade Safety**

The requirements from which Greenkraft seeks a temporary exemption are the Upper Beam #3 requirements in Table XVIII and Lower Beam #3V requirements in Table XIX-b. Greenkraft states in its application for a temporary exemption that the only difference between Greenkraft's low-emission vehicle if exempted and a compliant vehicle is that the headlamps on Greenkraft's low-emission vehicle fail to meet the minimum candela requirements for two upper beam test points and six lower beam test points and exceeds the maximum candela requirement for one upper beam test point for visually/optically aimed headlamps. Greenkraft attached to its application for an exemption a test report from a test laboratory showing that the headlamps on the vehicles that would be the subject of the exemption fail to meet the upper and lower beam requirements for optically and visually aimed headlamps. Greenkraft states in the application that granting the exemption would not unreasonably degrade the safety of the vehicle because the lamps provide "excellent illumination" even though they do not comply with the photometric requirements of FMVSS No. 108.

C. Substantiation that a Temporary Exemption Would Facilitate the Development of a Low Emissions Vehicle

Greenkraft states that a temporary exemption would facilitate the development of low-emission vehicles by allowing Greenkraft to redesign the headlamp without interrupting the development of the vehicle while the headlamp is being redesigned. Greenkraft further claims that, by beginning development promptly, it can receive critical data and test results to further the development of natural gas powered vehicles.

D. Public Interest

Greenkraft states that granting the temporary exemption would be in the public interest because the exemption would help increase the availability of low-emission natural gas power vehicles to businesses in the United States. Greenkraft states that this would reduce the United States' dependence on foreign oil.

**III. Issuance of Notice of Final Action**

Upon receiving a petition, NHTSA conducts an initial review of the petition with respect to whether the petition is complete and whether the petitioner appears to be eligible to apply for the requested petition. The agency has tentatively concluded that the petition is complete and that the petitioner is eligible to apply for the requested exemption. The agency has not made any judgment on the merits of the application and is placing a non-confidential copy of the petition in the docket.

We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the application in the Federal Register.

Issued in Washington, DC on February 12, 2013 under authority delegated in 49 CFR part 1.95.

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Christopher J. Bonanti  
Associate Administrator  
for Rulemaking

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